

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

H54B, INC. dba MOOSE CREEK LODGE
and MELANIE JORDAN,

Plaintiff,

VS.

UNITED STATES OF AMERICA, UNITED
STATES AIR FORCE,

Defendant.

Case No.

COMPLAINT

COMES NOW the Plaintiffs, H54B, Inc. dba Moose Creek Lodge and Melanie Jordan, by and through their attorney Jason A. Weiner of Gazewood and Weiner, Attorneys at Law, P.C., and hereby alleges:

1. Plaintiff H54B, Inc. dba Moose Creek Lodge (Moose Creek Lodge) is an Alaska Corporation in Good Standing whose principal place of business is in the State of Alaska in the Fourth Judicial District.

2. Plaintiff Melanie Jordan is the owner of Moose Creek Lodge through H54B, Inc., and is a resident of the State of Alaska in the Fourth Judicial District.

3. Defendant United States of America, United States Air Force (Air Force) operates the Eielson Air Force Base in the Fourth Judicial District, State of Alaska.

4. Prior to the year 2000, perflourinated compounds (PFCs) were used as firefighting foam on Eielson Air Force Base.

5. In July of 2014, the Air Force sampled four areas at Eielson Air Force Base for PFCs in groundwater, soil, and surface water. In January 2015, the results of this testing indicated widespread PFC contamination, with levels up to 2000 µg/L in groundwater. Base

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drinking water supply wells were tested in March of 2015, and it was discovered that several of the base drinking water wells had PFCs in excess of United States Environmental Protection Agency Public Health Advisory Levels (PHA) for drinking water.

6. In April of 2015, groundwater and surface water along the northern boundary of Eielson were sampled to determine whether contamination was migrating off base, and it was determined that contamination had migrated off base.

7. In May of 2015, the Air Force developed plans and began sampling residential drinking water wells in the community of Moose Creek, Alaska.

8. In June of 2015, sampling results from Moose Creek showed that all the wells sampled have PFCs, with about 90% exceeding the PHA level. Bottled water was supplied to affected residents. Further sampling in July of 2015 brought the count to 118 wells exceeding the PHA level. In September of 2015, granular activated carbon filtration systems at affected homes and businesses began.

9. Plaintiff Moose Creek Lodge's well was one of the contaminated wells.

10. Plaintiff Moose Creek Lodge's situation is more complicated than that experienced by residences in the area, in that it uses more water and, during times when water systems needed to be worked on, Moose Creek Lodge could not operate.

11. Plaintiff Moose Creek Lodge's entire water system, which provides water and beverages to customers, had to be cleaned so Moose Creek Lodge could continue to operate and comply with Alaska Regulations for bars and restaurants.

12. Moose Creek Lodge and Melanie Jordan have submitted several claims for reimbursement for loss of business and for reimbursement for replacement of the soda gun and attached piping due to the water contamination. The claim for reimbursement for replacement of the soda gun was denied on May 14, 2018. The claims for loss of business have never been

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addressed. A letter was sent out to WM. Darrell Johnson at Joint Base Andrews in Maryland, the individual that denied the claim for replacement of the soda gun, trying one last time to resolve the claim. WM. Johnson has still not responded in any way.

COUNT I – LOSS OF BUSINESS DUE TO NEGLIGENCE OF DEFENDANT

7. Plaintiffs incorporate the preceding paragraphs as though set forth below in full.

8. Defendant negligently released hazardous substances onto the ground and ultimately into the water table surrounding Eielson Air Force Base and in the Moose Creek, Alaska area. The wells in Moose Creek, Alaska are now testing positive for PFCs. As a result, water from the wells is not safe to drink.

9. Plaintiffs have contaminated wells they can no longer use as a water source as a result of Defendant's negligent actions. Defendants are responsible for the damage to Plaintiffs' water source and must replace the water source with a safe water source at Defendant's expense. Defendant has made extensive efforts to address the water source issues and provide water to Plaintiffs, but these efforts have resulted in expense to Plaintiff that Defendant is responsible for and Plaintiff has claimed.

10. Plaintiffs estimate that they have lost \$20,318 in business as a result of Defendant's negligent and as a consequence of having their water source interrupted by Defendant's efforts to replace the contaminated water with safe water.

COUNT II – COST OF SUPPLIES WHILE WATER SYSTEM WAS DOWN

11. Plaintiffs incorporate the preceding paragraphs as though set forth below in full.

12. Defendants' negligent release of hazardous substances into the ground water has caused Plaintiff to have to purchase supplies to substitute for the loss of water caused by Defendant's contamination of Plaintiff's well water and interruption of Defendant's alternative water source.

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13. Plaintiffs have incurred \$6,853.87 for supplies to substitute for the loss of water caused by Defendant's contamination of Plaintiff's well water and interruption of Defendant's alternative water source. Defendant is liable for the supplies that needed to be purchased while Defendant's alternative water source was unavailable.

COUNT III – REPAIRS TO WATER SYSTEM – SODA GUN

14. Plaintiffs incorporate the preceding paragraphs as though set forth below in full.

15. The contaminated water fouled Plaintiff's soda gun. The equipment had to be replaced by the Odom Corporation at a cost of \$3,541.83. For some unknown reason, Plaintiffs were told that Odom Corporation had to make the claim. Odom Corporation did make the claim, and the claim was denied without explanation.

16. Defendant is liable to Plaintiffs for the cost of replacing the soda gun in the amount of \$3,541.83.

COUNT IV – PUNITIVE DAMAGES

17. Plaintiffs incorporate the preceding paragraphs as though set forth below in full.

18. Defendant contaminated Plaintiffs' water supply. Then Defendant told Plaintiffs to make claims for their damages as a result of the contaminated water supply. Defendant then proceeded to ignore those claims for a few years, and responded to only one claim with a denial without explanation.

19. Defendant's actions of both contaminating Plaintiffs' water supply, and then ignoring and otherwise improperly denying Plaintiffs' claims evidenced reckless indifference to the interests of Plaintiff.

20. Defendant is liable to Plaintiffs for punitive damages in excess of \$100,000, with the exact amount to be determined at trial.

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WHEREFORE, Plaintiffs pray this court enter judgment against Defendant United States as follows

1. For damages in an amount to be determined at trial for loss of business, cost of supplies as substitute for water, and costs to replace soda gun.
2. For punitive damages in excess of \$100,000.
3. For pre and post judgment interest.
4. For the costs of this action.
5. For attorney's fees as provided by statute and rule.
6. For such other, and further, relief as this Court deems to be appropriate.

DATED and SUBMITTED this 13 day of November, 2018, at Fairbanks, Alaska.

GAZEWOOD & WEINER
Attorneys for Plaintiff



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